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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,256	08/23/2001	Edward S. Beeman	10003835-1	1286

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EXAMINER

EDWARDS, PATRICK L

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/938,256

Applicant(s)

BEEMAN ET AL.

Examiner

Patrick L Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2,3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed on January 11, 2002 (paper #2), lists a pending application entitled "System and Method for Combining Voice Annotation and Recognition Search Criteria with Traditional Search Criteria in Metadata". This document is listed incorrectly as having application S/N 09/837687 in the IDS. The serial number of the application is actually 09/873687. This error has been corrected and initialed by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1–20 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhu et al. (USPN 6,345,274 B1).

With regard to claim 11, which is representative of claim 1, Zhu discloses a means for querying a user as to the attributes of an image the user wishes to retrieve (col. 6 lines 8-9). The system-provided "response set" disclosed in Zhu is a means for querying a user as to the image attributes they wish to receive. Since the images are measured and identified based on their features (col. 5 lines 14-24 and col. 6 lines 15-33), which are determined by image attributes (col. 5 lines 34-36 and col. 6 lines 36-44 in conjunction with Figure 3). It follows that when a user selects a desired image, the user is inherently identifying the attributes of that image.

Zhu further discloses a means for receiving user responses and presenting images to the user based upon these user responses (col. 6 lines 10-14). Zhu discloses that the user selects 'desired response images' from the initial query. These selections, (which are received by the system), are the user responses to the query. Furthermore, these selections identify the image attributes that the user wishes to retrieve.

Zhu further discloses means for presenting images to the user based upon these responses (col. 6 lines 14-18 and col. 7 lines 30-31 in conjunction with Figure 7). These images are presented to the user via the display 30 disclosed in Zhu. This display qualifies as a means for presenting images to the user (based on the user responses, i.e. the selected desired response images disclosed in Zhu).

With regard to claim 2, Zhu implicitly discloses posing a series of questions to the user and receiving separate responses to each posed question (Zhu Figure 7). At element S310 of Figure 7 in the Zhu disclosure, the user selects a desired image from a set of possible images (col. 6 lines 8-14). Although Zhu does not explicitly state

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this is a question posed to the user, this type of option in a system is implicitly asking the question “which of these images most closely represents your desired image?”. The user then implicitly answers this question by selecting the query image. The system then retrieves a set of images based on the user’s selection (col. 6 lines 14-16). However, if the subsequently displayed set of images fails to meet the user’s preference, then we move on to element S340 of Figure 7. In this step the user provides examples and/or counterexamples of desired images. At this point, the system is asking the user to answer either (or both) of the questions “which of these images most closely represents my desired image”? and “which of these images has the least resemblance to my desired image”? In selecting a desirable (or undesirable) image, the user is responding to these implied questions.

With regard to claim 3, the successive questions are dependent on the user response given to a previous question in that the user response given to a previous implied question determines the candidate set of images from which a desired image will be chosen. Therefore, selecting a different image from a set of possible images is equivalent to giving a unique response to an initially posed question.

With regard to claim 4, Zhu discloses eliminating potential image matches in response to the received response (col. 6 lines 13-21). Zhu discloses retrieving images that are similar to the selected image. Consequently, the potential matches which are different from the selected image are eliminated.

With regard to claim 12, which is representative of claim 5, it was argued above (see the claim 1 and 11 discussion) that when a user from the Zhu disclosure selects a desired image from a set of possible images, the user is inherently identifying at least one image attribute. Consequently, the limitations of the claim are inherently required in the Zhu disclosure.

With regard to claim 13, which is representative of claim 6, Zhu further discloses that the image features are stored as image metadata (col. 5 lines 14-16). Since the image “features” disclosed in Zhu are determined by the attribute values of the image (see Figure 3 of Zhu), it follows that the attribute values are inherently stored as image metadata. Additionally it should be noted that this occurs in response to the user selection of an image as disclosed in Zhu (i.e. the claimed ‘user response to a prompt’). This is shown in col. 6 lines 13-41 in the Zhu reference.

With regard to claim 7, it has already been stated that the user response in the Zhu reference comprises user selection of a presented image.

With regard to claim 8, it was argued above (see the claim 1 and 11 discussion) that when a user (from the Zhu disclosure) selects a desired image from a set of possible images, the user is inherently identifying at least one image attribute. Consequently the limitations of the claim are inherently required in the Zhu disclosure.

With regard to claim 14, which is representative of claim 9, Zhu discloses extracting recognizable image attributes from the selected images (Zhu col. 5 lines 14-36 and col. 6 lines 13-31 in conjunction with Figure 3). It was argued above that Zhu inherently determines attribute values in the disclosed feature extraction step. This feature extraction step qualifies as the ‘image analysis’ recited in the claim in that an image must first be analyzed to determine its features before they can be extracted. Zhu further discloses that this is performed on “recognizable image attributes” such as color, texture, regions, boundaries, etc. (col. 5 lines 18-20).

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With regard to claim 15, which is representative of claim 10, all of the limitations of the claims are discussed above.

With regard to claims 16-20, all of the limitations of the claims have been addressed above and Zhu further discloses a computer program stored on a computer-readable medium comprising logical steps operable to perform the previously discussed steps in the image retrieval method (col. 4 lines 18-34).

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick L Edwards whose telephone number is (703) 305-6301. The examiner can normally be reached on 8:30am - 5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Boudreau can be reached on (703) 305-4706. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

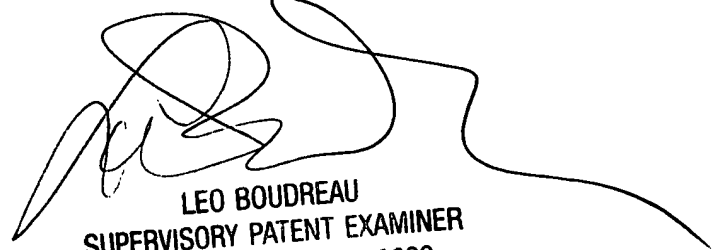
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrick Lynn Edwards

ple



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